IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Bail Appl..No. 6676 of 2007()

[CRIME NO.243/07 OF PONANI POLICE STATION]

: PETITIONERS/7TH & 8TH ACCUSED:

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1. RAJESH, S/O. CHANDRAN,
THIYYATHU PARAMBIL HOUSE, PALLIKKARA AMSOM,
KANHIYOOR DESOM, MOOKUTHALA, PONANI TALUK.

2. PRAKASAN, S/O. KUNHIMON,
THIYYATHUPARAMBIL HOUSE, PALLIKKARA AMSOM,
KANHIYOOR DESOM, MOOKUTHALA, PONANI TALUK.

BY ADV. SRI.A.KRISHNAN

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6676 of 2007

Dated this the 5th day of November 2007

O R D E R

Application for anticipatory bail. Petitioners are accused 7 and 8. Altogether there are eight accused persons. They face allegations for offences punishable inter alia under Sections 332 and 353 I.P.C and Section 3 of the P.D.P.P.Act. The crux of the allegations against the accused persons is that they (all of them are named in the F.I.R) allegedly proceeded to the police station. They were infuriated by an alleged incident earlier under which some persons were attacked by the police officers. The miscreants, who went to the police station, because of such animosity, allegedly assaulted the policemen on duty and deterred them from the performance of their official duty. Stones were thrown at the police station and damage caused to the police station. This, in short, is the allegations raised.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Even though the incident had taken place as early as on 18/5/2007, the petitioners, who were available in the locality have not been so

far arrested. No attempts have been made to arrest the petitioners and to vex and harass them. They attempted to be arrested. Anticipatory bail may be granted to the petitioners, it is prayed.

3. Application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that the police station has suffered damage. Police officials were deterred from the performance of their official duty. There are absolutely no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. The petitioners may be directed to appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioners must appear before

the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007